

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN SENATE JULY 9, 2009

AMENDED IN SENATE JUNE 3, 2009

AMENDED IN SENATE MAY 21, 2009

AMENDED IN SENATE APRIL 27, 2009

SENATE BILL

No. 474

Introduced by Senator Ducheny

February 26, 2009

An act to add Section 14105.1 to the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 474, as amended, Ducheny. Transportation: pilot programs.

Existing law authorizes the Department of Transportation to do any act necessary, convenient, or proper for the construction, improvement, maintenance, or use of all highways which are under its jurisdiction. Existing law provides for the California Transportation Commission to program certain transportation funds for particular projects, and to report to the Legislature on various transportation policy matters. Existing law authorizes the department and certain local agencies to enter into agreements for transportation projects under pilot programs using public-private partnerships. Existing law authorizes certain transportation projects under pilot programs using design-build-and design-sequencing contracting methods.

This bill would require the lead agency for a project, ~~within 90 days after the award of a contract or prior to entering into any agreement for a pilot program involving an alternative contracting or financing method, as specified, to make a finding that the use of that method will provide specified benefits. The bill would require the California Transportation Commission to provide an annual consolidated report to the Legislature on the progress of and savings resulting from those pilot programs, as specified, based on input from the department and regional agencies. The bill would require the commission to develop the methodology for determining those savings benefits pass a resolution that identifies the anticipated benefits from using those methods in comparison to using traditional contracting or financing methods.~~

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14105.1 is added to the Government
2 Code, to read:
3 14105.1. (a) (1) ~~Within 90 days after the award of a contract~~
4 ~~or entering into any agreement for a pilot program involving an~~
5 ~~alternative contracting or financing method identified in~~
6 ~~subdivision (c), the lead agency for the project shall make a finding~~
7 ~~that the use of the alternative method will provide any of the~~
8 ~~following benefits to the public when compared to a traditional~~
9 ~~contracting or financing method:~~
10 (A) ~~Accelerates the project completion date.~~
11 (B) ~~Produces savings in personnel or financial resources.~~
12 (C) ~~Results in lower costs to the users of the facility developed~~
13 ~~under the method.~~
14 (D) ~~Brings financial resources to the project that would not~~
15 ~~otherwise be available.~~
16 (2) ~~If the lead agency on a project is not the owner of the facility,~~
17 ~~the owner of the facility shall concur in the finding.~~
18 (3) ~~The purpose of requiring the finding is solely to assist the~~
19 ~~public and the Legislature in evaluating the effectiveness of the~~
20 ~~alternative methods described in subdivision (c), subsequent to~~
21 ~~award of a contract involving an alternative method, in order to~~

1 determine the extent to which those alternative methods may or
2 may not be authorized for future pilot programs. An agency that
3 makes a finding as required and later determines that the use of
4 the alternative method was no more effective, or less effective,
5 than a traditional method for a project shall not be liable to any
6 person for making the decision to use the alternative method.

7 (b) The commission, in cooperation with the department and
8 regional transportation agencies, shall develop the methodology
9 for determining whether a project will provide the benefits that
10 are identified in subdivision (a).

11 (c) (1) The commission shall, on an annual basis, provide a
12 consolidated report to the Legislature on the progress of the
13 following pilot programs:

14 *14105.1. Prior to entering into an agreement pursuant to the*
15 *following alternative contracting or financing methods, the lead*
16 *agency for the project shall pass a resolution that identifies the*
17 *anticipated benefits from using those methods in comparison to*
18 *using traditional contracting or financing methods:*

19 (A)

20 (a) Public-private partnerships authorized pursuant to Section
21 143 of the Streets and Highways Code.

22 (B)

23 (b) Design-build authorized pursuant to Chapter 6.5
24 (commencing with Section 6800) of Part 1 of Division 2 of the
25 Public Contract Code.

26 (C) Design-sequencing authorized pursuant to Article 6.5
27 (commencing with Section 217) of Chapter 1 of Division 1 of the
28 Streets and Highways Code.

29 (2) The consolidated report shall include information on any
30 savings in time or resources to the lead agency or to users of the
31 resulting facility due to the pilot programs specified in this
32 subdivision, as well as the information required by Sections 143
33 and 217.8 of the Streets and Highways Code and Section 6811 of
34 the Public Contract Code.

35 (3) The consolidated report may be incorporated into the
36 commission's annual report to the Legislature as required by
37 Section 14535.

38 (d) (1) The department shall submit to the commission the
39 reports required by Section 217.8 of the Streets and Highways
40 Code for the purpose of preparation of the consolidated report.

1 ~~(2) Upon request by the commission, any transportation agency~~
2 ~~involved in one of the pilot programs specified in subdivision (e)~~
3 ~~shall provide information deemed necessary by the commission~~
4 ~~for the purpose of preparation of the consolidated report.~~

5 ~~(e) It is the intent of the Legislature that agencies that seek to~~
6 ~~utilize an alternative contracting or financing method justify the~~
7 ~~use of that method by making a finding regarding the benefits that~~
8 ~~the method is expected to yield for the public. It is further the intent~~
9 ~~of the Legislature that agencies using such a method report on the~~
10 ~~extent to which the method did in fact produce the expected~~
11 ~~benefits.~~

12 SEC. 2. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 ~~In order to require reporting for pilot programs, and findings for~~
17 ~~lead agencies to identify anticipated benefits, prior to entering~~
18 ~~into an agreement for transportation projects pursuant to specified~~
19 ~~pilot programs involving alternative contracting or financing, by~~
20 ~~the California Transportation Commission at the earliest possible~~
21 ~~time, it is necessary that this act take effect immediately.~~